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CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

BY _____

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **STANISLAUS COUNTY**

11 CLIFFORD J. NEILL, BALTAZAR
12 FLORES, and GUSTAVO SERNA,
13 individually, and on behalf of all others
14 similarly situated,

15 Plaintiffs,

16 v.

17 VERNON CONSTRUCTION & ROOFING,
18 INC., ERIC S. VERNON, SR. AKA ERIC
19 VERNON, and BERTHA CAMACHO AKA
20 BECKY CAMACHO, ROBERT T.
21 VERNON DBA VERNON ROOFING, and
22 DOES 2 through 50, inclusive,

23 Defendants.

Case No.: 2130258

CLASS ACTION

~~[PROPOSED]~~ ORDER GRANTING:

- 1 (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT;
- 2 (2) CERTIFICATION OF SETTLEMENT CLASS;
- 3 (3) AWARD OF CLASS REPRESENTATIVES' SERVICE PAYMENTS; and
- 4 (4) AWARD OF ATTORNEYS' FEES AND COSTS

Date: January 25, 2019
Time: 8:30 a.m.
Department: 22
Judge: Hon. Stacy Speiller

1 The Motion for Final Approval of a Class Action Settlement and Request for Attorneys’
2 Fees, Costs, and Class Representatives’ Service Payments came before this Court, Hon. Stacy
3 Speiller presiding, on January 25, 2019. The Court, having considered the papers submitted in
4 support of Plaintiffs’ application, HEREBY ORDERS THE FOLLOWING:

5 1. The Court finds and concludes as follows: As noted in this Court’s Order of
6 October 26, 2018, the proposed settlement class meets the certification requirements under
7 section 382 of the Code of Civil Procedure, including that: (a) the proposed class is
8 ascertainable and so numerous that joinder of all members of the class is impracticable; (b) there
9 are predominant questions of law or fact common to the proposed class, and there is a well-
10 defined community of interest among members of the proposed class with respect to the subject
11 matter of the Action; (c) the claims of class representatives Clifford J. Neill, Baltazar Flores, and
12 Gustavo Serna (“Class Representatives”) are typical of the claims of the members of the
13 proposed class; (d) Class Representatives will fairly and adequately protect the interests of the
14 proposed class; (e) a class action is superior to other available methods for an efficient
15 adjudication of this controversy; and (f) Plaintiffs’ counsel is qualified to serve as counsel for the
16 class. As such, for settlement purposes only, the Court confirms its previous conditional
17 certification and hereby certifies a settlement class of “all hourly, non-exempt, construction
18 employees who worked for Vernon Construction & Roofing, Inc., performing roofing work at
19 any time from September 25, 2013 to December 31, 2017.”

20 2. Based on a review of the papers submitted by Plaintiffs, the parties’ presentation
21 at the hearing, and the record in this case, the Court finds that that the settlement is the result of
22 extensive arm’s-length negotiations conducted after Plaintiffs’ counsel had adequately
23 investigated the claims and become familiar with the strengths and weaknesses of those claims.
24 The assistance of mediator Hon. James Lambden (Ret.) in the settlement process supports the
25 Court’s conclusion that the settlement is non-collusive. The Court finds the settlement to be
26 valid and notes that no class member made any objections to any of the terms of the settlement at
27 or before the Final Fairness and Approval Hearing in this matter, and no class member opted out

1 of the settlement. The Court also notes that 100% of the class members will participate in the
2 settlement.

3 3. In making this finding of final approval, the Court considered the nature of the
4 claims, the amounts and kinds of benefits paid in settlement, the allocation of settlement
5 payments among the class members, and the fact that Defendants do not admit any liability and
6 do not characterize this settlement as an admission of liability as to any claim that was or could
7 have been asserted by any party, and the fact that the settlement represents a compromise of the
8 parties' respective positions rather than the result of a finding of liability at trial. The Court
9 further finds that the terms of the settlement have no obvious deficiencies and do not improperly
10 grant preferential treatment to any individual class member. Accordingly, the Court finds that
11 the Stipulation was entered into in good faith, pursuant to section 877.6 of the California Code of
12 Civil Procedure.

13 4. The Court finds further that the settlement—appears to be fundamentally fair,
14 reasonable, and adequate. As such, the Court hereby approves the settlement as, in all respects,
15 fair, adequate and reasonable, and directs the parties to effectuate the settlement according to its
16 terms. The Court finds that the settlement at this time will avoid additional substantial costs, as
17 well as avoid the delay and risks that would be presented by further prosecution of the action.
18 The Court has reviewed the benefits that are being granted as part of the settlement and
19 recognizes the significant value to the class members. The Court therefore GRANTS final
20 approval of the settlement upon the terms set forth in the settlement filed by the parties.

21 5. Plaintiffs Clifford J. Neill, Baltazar Flores, and Gustavo Serna are hereby
22 confirmed as the appointed Class Representatives, and the requested incentive payments to them
23 of \$5,000 each are appropriate under the circumstances of the case and the time and effort spent
24 by Plaintiffs in litigating the case on behalf of the Class.

25 6. Cristina Molteni of Molteni Employment Law is hereby confirmed as the
26 appointed Class Counsel.

27 7. Simpluris, Inc., previously appointed by this Court as the Settlement

1 Administrator, is hereby awarded from the settlement sum \$3,000 in administrative costs for its
2 work on the settlement administration in this case.

3 8. Pursuant to the terms of the settlement, and the authorities, evidence and
4 argument submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in
5 the amount of \$20,000, and litigation costs in the amount of \$10,000 to be paid from the
6 settlement fund as final payment for and complete satisfaction of any and all attorneys' fees and
7 costs incurred by and/or owed to Class Counsel.

8 9. Class Counsel have submitted evidence indicating that the requested costs here
9 are recoverable because they are both relevant to the litigation and reasonable in amount. Since
10 the outset of this litigation, Plaintiffs' counsel have incurred unreimbursed costs prosecuting this
11 case on behalf of the class, including costs for the following: (1) copying, mailing, and serving
12 documents; (2) travel for meetings and hearings; (3) mediator's fees; (4) conducting computer
13 research; and (5) filing and legal services fees. Plaintiffs' counsel put forward these out-of-
14 pocket costs without assurance that they would be repaid. These litigation expenses were
15 necessary to secure the resolution of this litigation. The record before the Court indicates that
16 Plaintiffs' counsel incurred \$11,672.72 for litigation costs. The Court finds this amount
17 reasonable; however, the Court approves \$10,000 for litigation costs, as requested by Class
18 Counsel.

19 10. The attorneys' fee request of \$20,000 is reasonable under both methods used in
20 California courts for determining fee awards in class action cases: the lodestar method and the
21 percentage-of-the-recovery method. Plaintiffs' counsel's effort over the course of the litigation
22 in this case have secured an excellent result for the class members despite substantial risks of no
23 recovery that Plaintiffs faced throughout this litigation. Plaintiffs' counsel has submitted
24 declarations indicating that they have incurred over \$106,920 in lodestar, yet are seeking only a
25 fraction of that amount. In addition, they are seeking a fee award equal to 18% of the total
26 settlement fund, which the Court finds to be reasonable given the work performed, the results
27 achieved, and the risks and circumstances of this case.

1 11. The terms of the settlement provide that Defendants will fund the settlement
2 amount within ten (10) days after the court enters an order granting final approval of the
3 Settlement Agreement and Release. As provided in the Settlement, Simpluris will send
4 settlement checks to the Class, incentive payment checks to the Class Representatives, PAGA
5 allocation to LWDA, and attorneys' fees and costs to Class Counsel.

6 12. Class Members will have 90 days to cash their settlement checks once they are
7 issued. As such, the Court will hold a final accounting hearing after the 90-day period in which
8 the settlement checks may be cashed. Five court days prior the hearing, Class Counsel must file
9 an accounting with the Court explaining how many Class Members cashed their checks,
10 identifying any unresolved issues, stating how much money (if any) remains in the Net
11 Settlement Amount, and any other information that will permit the Court to further evaluate the
12 conclusion of the settlement process. At the final accounting hearing, the Court will address any
13 unresolved issues and, if the court deems it appropriate, order the uncashed checks to be
14 cancelled and that sum to be sent to the Trial Court Improvement and Modernization Fund (50%)
15 and to the Equal Access Fund of the Judicial Branch (50%), pursuant to Code of Civil Procedure
16 § 384. At that time, if appropriate, the Court will enter a final order of judgment.

17 13. In light of the foregoing, the court therefore: (1) GRANTS final approval of the
18 Settlement, under which Defendant is obligated to pay or deposit the sum of \$80,000, plus
19 payment of the Employer's share of payroll taxes associated with the payment of wages to the
20 the Class Members; (2) GRANTS approval of the request of the Settlement Administrator for
21 \$3,000 in settlement administration costs; (3) GRANTS the request for a class representative
22 incentive payment of \$5,000 to each Class Representative; (4) FINDS the notice to the Class
23 Members was adequate; (5) AWARDS Class Counsel attorneys' fees in the amount of \$20,000,
24 and litigation costs in the amount of \$10,000; (6) AWARDS PAGA penalties in the amount of
25 \$4,000 to be allocated 75% to the Labor and Workforce Development Agency and 25% to the
26 Class Members; and (7) it will SET a date for a final accounting hearing after June 2019, at
27 which the Court will enter judgment consistent with the terms of the Settlement if appropriate.

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IT IS SO ORDERED.

Dated: JAN 25 2019

STACY P. SPEILLER

Honorable Stacy Speiller
Judge of the Superior Court